IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 10TH JANUARY 2007 / 20TH PAUSHA 1928

OP.No. 5669 of 2002(Y)

PETITIONER:

BINANI ZINC, A DIVISION OF BINANI
INDUSTRIES LIMITED, BINANIPURAM-683 502
REPRESENTED BY ITS PRESIDENT, SRI.N.MOHAN.

BY ADV. SRI.ANTONY DOMINIC
SRI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR
SMT.PRIYA MAHESH
SMT.PRIYA MANJOORAN

RESPONDENTS:
---

1. KERALA STATE ELECTRICITY BOARD,
VYDHYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM,
REPRESENTED BY ITS SECRETARY.

2. THE CHAIRMAN,
KERALA STATE ELECTRICITY BOARD,
VYDHYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM.

3. SPECIAL OFFICER (REVENUE)
KERALA STATE ELECTRICITY BOARD,
VYDHYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM.

4. STATE OF KERALA, REPRESENTED BY ITS
PRINCIPAL SECRETARY TO GOVERNMENT,
POWER (A) DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 10/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.9969/02 IN O.P.NO.5669/02

DISMISSED

10.1.2007. SD/- KURIAN JOSEPH, JUDGE.

A P P E N D I X

PETITIONER'S EXHIBITS :

EXT.P1: TRUE COPY OF THE ORDER DT. 3.8.2001 ISSUED BY THE 4TH RESPONDENT.

EXT.P2 : TRUE COPY OF THE GAZETTE EXTRA-ORDINARY DT. 7.8.2001 ISSUED BY THE FIRST RESPONDENT.

EXT.P3 : TRUE COPY OF THE INVOICE SERVED ON THE PETITIONER FOR THE MONTH OF AUGUST, 2001.

EXT.P4 : TRUE COPY OF THE INVOICE DT. SEPTEMBER, 2001 ISSUED TO THE PETITIONER.

EXT.P5 : TRUE COPY OF THE INVOICE DT. OCTOBER, 2001 ISSUED TO THE PETITIONER.

EXT.P6 TRUE COPY OF THE LETTER DT. 8.11.01 ISSUED BY THE DY.CHIEF ENGINEER-IN-CHARGE (COMMERCIAL & TARIFF).

EXT.P7 TRUE COPY OF THE INVOICE DT. NOVEMBER, 2001 ISSUED TO THE PETITIONER.

EXT.P8 TRUE COPY OF THE INVOICE DT. DECEMBER, 2001 ISSUED TO THE PETITIONER.

EXT.R1A TRUE COPY OF THE COMPARATIVE STATEMENT PRE-REVISED RATES DT. 10.8.2001.

TGS

KURIAN JOSEPH, J.

O.P.No.5669 of 2002

Dated 10th January, 2007.

J U D G M E N T

The writ petition is filed mainly with the following prayers :-

> (i) "Issue a writ of certiorari or any other appropriate writ, order or direction, calling for the records leading to Ext.P2 and quash the energy charges fixed at Rs.2.40 in respect of non-power intensive industries;
>
> (ii) Issue a writ of certiorari or any other appropriate writ, order or direction calling for the records leading to Exts.P3, P4, P5, P7 and P8 and quash the same to the extent energy charges are demanded at the rate of Rs.2.40 per unit;
>
> (iii) Issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondents to fix energy charges in respect of non-power intensive industries at Rs.2,375/- per unit in implementation of Ext.P1 and to rework the energy charges from 10.8.2001;
>
> (iv) Issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondents 1 to 3 to refund Rs.13,05,220/- with interest thereon."

On the very same issue raised by a similarly situated consumer, Fertilizers and Chemicals Travancore Limited, this Court by judgment dated 5.6.2006 in O.P.3394/02 has directed the Government to consider the matter since the enhancement of the tariff is pursuant to the Government Order permitting only 25% enhancement. Accordingly, this writ petition is disposed of

directing the 4th respondent to consider the case of the petitioner also, while taking a decision pursuant to the judgment dated 5.6.2006 in O.P.3394/02, with notice to the petitioner. The interim order passed by this Court in C.M.P.No.9969/02 will continue till such time. The amounts already remitted by the petitioner will be suitably adjusted, depending on the orders passed by the Government.

KURIAN JOSEPH, JUDGE.

tgs

KURIAN JOSEPH, J

O.P.No.5669 of 2002 (Y)

J U D G M E N T

Dated 10th January, 2007.